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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-209103

**DATE:** July 12, 1983

**MATTER OF:** ELCOM, Incorporated

**DIGEST:**

1. Where the protester did not receive an amendment to the solicitation until the day quotes were due, but the time available to prepare a quote appears reasonable under the circumstances and there has been no showing of prejudice, protest received after time set for receipt of quotations alleging that the protester was unable to submit a quote is untimely because the alleged deficiency was apparent on the face of the solicitation.
2. RFQ requirement for first-year start-up services cannot reasonably be interpreted as imposing unlimited obligation upon the contractor to provide such services throughout the first year. Consequently, agency may make award on basis of offered 3 days of services which agency determined satisfied its needs.

ELCOM, Inc. protests award under Request for Quotations (RFQ) No. DAAK70-82-Q-2050 issued by the U.S. Army Mobility Equipment Research and Development Command for a continuous monitoring gas detection system to be installed in a laboratory. We dismiss one aspect of the protest and deny the other.

Using small purchase procedures, the Army issued the RFQ on August 19, 1982 to three firms with quotes due August 26. Because of technical questions raised by the firms, the Army revised the RFQ, extending the closing date for receipt of quotes to September 7 and then to September 15.

Only one firm, Interface, Incorporated, replied on September 15; the Army issued a \$8,698.58 purchase order to Interface the following morning. Later that

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same day ELCOM's representative called the Army's contract negotiator to inquire about the results of the competition. Upon learning of award to Interface, ELCOM asserted that it could have furnished comparable equipment at a lower price and protested to our Office.

ELCOM argues that it did not have adequate time to prepare a quote because it did not receive the revised RFQ until the date quotes were due, September 15.

The Army replies that ELCOM was familiar with the requirement by the time the September 7 amendment was issued seeking quotes on September 15 and that ELCOM had adequate time to prepare a quote. The Army also questions why, given the informal nature of small purchases, ELCOM did not request an extension of the September 15 due date if it did not have time to prepare a quote since it admits that it had the amended RFQ by that date.

Any protest concerning the terms of a request for quotations or other alleged improprieties apparent prior to the submission of quotes must be filed prior to the date and time set for submission in order to be timely. Irvin Industries, Inc., B-187849, March 28, 1977, 77-1 CPD 217; Clarke & Lewis, Inc., B-196954, January 8, 1980, 80-1 CPD 24. We have made an exception to this rule where as the result of extremely limited time periods circumstances did not permit the filing of a protest prior to the date and time set for receipt of offers. See, e.g., Ampex Corporation, B-190529, March 16, 1978, 78-1 CPD 212 ("the time for receipt of proposals was practically simultaneous with the solicitation, the entire process apparently taking only 10 minutes and there was no formal or informal closing date"); Culligan, Inc., 58 Comp. Gen. 307 (1979), 79-1 CPD 149 (protester received IFB amendment less than 3 hours prior to bid opening).

The record here does not disclose what hour of the day ELCOM received the amended RFQ. However, ELCOM does not contend that it was unable to prepare a quotation in the time available; rather, it simply asserts that "(s)ame day quotations are not the practice of ELCOM." ELCOM also states that the only individual authorized to sign contracts for it frequently travels during the business day, but does not state whether that individual was available during the day in question. In summary, ELCOM has shown only that it may have been inconvenienced by the late

receipt of the amendment; it has not shown that the delay prevented ELCOM from responding or prejudiced it in any manner.

Given these circumstances, the fact that ELCOM was already well acquainted with this requirement, and the relatively small size of the purchase, we do not think it would have been unreasonable to expect ELCOM to submit its quotation the same day it received the amended RFQ or, failing that, to request an extension. The circumstances of this case are therefore more like those in Irvin Industries, Inc., supra, than those where timely protest was not possible. Accordingly, we dismiss those aspects of the protest that concern the time available to ELCOM for submitting its quote.

ELCOM also argues that Interface's quotation did not satisfy the RFQ requirement for start-up services. The RFQ provided that the contractor:

" . . . must provide complete start-up services, to include instructions for and inspection of complete installation, initial testing, demonstration of and instruction in the routine maintenance and calibration of the system during the first year."

Interface's quote stated: "start-up service--3 days." ELCOM asserts that this offer to provide 3 days of service does not meet the requirement to provide service "during the first year."

We do not believe that the RFQ language can reasonably be read as imposing an unlimited obligation upon the contractor to provide start-up services throughout the first year. For example, we see nothing that would lead the contractor to anticipate having to furnish installation instructions more than once; or inspect the installed system and conduct initial testing more than once; or provide instruction in routine maintenance and calibration of the system more than once or, at most, a set number of times. In this respect, the agency reports that upon receipt of Interface's quote it discussed start-up services with Interface and determined that what Interface was offering indeed satisfied what the agency was seeking. Under the circumstances, we fail to see any impropriety in what happened here.

The protest is denied in part and dismissed in part.

*for* *Milton J. Acosta*  
Comptroller General  
of the United States